

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

KEVIN TILLMAN,

Defendant.

-----X  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
-----X

13 Cr. 362 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

Defendant Kevin Tillman has moved for compassionate release under 18 U.S.C § 3582(c)(1)(A). *See* Dkts. 109, 110 (“Motion”). One of Tillman’s arguments for compassionate release is that his sentence was driven by his career offender status and that he would no longer qualify as a career offender if he was sentenced today because conspiracy to commit Hobbs Act Robbery does not count as a crime of violence under U.S.S.G. § 4B1.2. *See* Motion at 6-7.

On July 14, 2022, the Government opposed the Motion. Dkt. 117 (“Opposition”). One of the Government’s arguments for denying Tillman’s motion is that under “Application Note one to § 4B1.2 of the Guidelines,” “conspiracy to commit Hobbs Act robbery is a ‘crime of violence’ for purposes of the career offender provision of the United States Sentencing Guidelines.” *Id.* at 5. But since the Government filed its Opposition, the Second Circuit has held that “Hobbs Act robbery is categorically [not] a ‘crime of violence’ under the career offender provision of the United States Sentencing Guidelines.” *United States v. Chappelle*, 2022 WL 2837807, at \*1, — F.4th — (2d Cir. 2022). It also held that “because Hobbs Act robbery is not a crime of violence under the career offender Guideline, a conspiracy to commit Hobbs Act robbery would not be a

crime of violence by operation of Application Note 1 to § 4B1.2, which provides that a conspiracy to commit a crime of violence is itself a crime of violence.” *Id.* at \*7.

By August 12, 2022, the Government shall file a supplemental brief explaining how the Second Circuit’s decision in *Chappelle* affects the Court’s analysis in considering the Motion. That letter should also identify any decisions by courts within the Second Circuit that have held that “a change in law regarding career offender status does not stand as an ‘extraordinary and compelling reason’ warranting early release.” *Id.* at 6 (identifying only out-of-Circuit decisions). Tillman may, but need not, reply to the Government’s supplemental brief by August 19, 2022.

The Clerk of the Court is respectfully directed to mail a copy of this Order to Defendant at Kevin Tillman, Reg. No. 68564-054, FCI Beckley, Federal Correctional Institution, P.O. Box 350, General & Legal Mail, Beaver, WV 25813.

SO ORDERED.

Dated: August 5, 2022  
New York, New York

A handwritten signature in black ink, appearing to read "John P. Cronan", is written over a horizontal line.

JOHN P. CRONAN  
United States District Judge